S.B. CIVIL Writ Petition NO. 1982/2005.
(Tulsiram Dhoot Vs. State of Rajasthan & ors.)

DATE OF ORDER : 13.11.2007.

HON'BLE DR.JUSTICE VINEET KOTHARI

Mr. Sanjeev Johari, for the petitioner.
Mr. OP Boob, Addl.G.A., for State.

Heard the learned counsel.

The relief claimed in this writ petition is for refund of excess stamp duty and registration charges paid by the petitioner on registration of Nazul land purchased from the Collector, Jodhpur. Admittedly, vide Annexure-4 dated 19.12.2001, the Sub- Registrar (Stamps), Jodhpur informed the Deputy Inspector of Stamps that a sum of Rs. 39,409/- has been paid in excess by the petitioner for registration of the said conveyance deed and that such excess amount is required to be refunded back to the petitioner. However, since no action was taken by the said concerned authority on the recommendation of the Sub- Registrar, the petitioner had to file this writ petition claiming this relief.

The only defence taken by the respondent -State, without denying the facum of payment of excess stamp duty by

the petitioner, is that since the petitioner did not pay the excess stamp duty and registration charges in excess of what is leviable under the concerned notification Annexure-3 dated 22.1.2001, under protest, such refund was not made to the petitioner.

In the opinion of this Court, the stand taken by the State is rather curious and unsustainable in the eye of law. A welfare State cannot retain the money of a private individual without legal justification much less when the land in question was sold by the Collector himself to the petitioner and admittedly such stamp duty was paid in excess to the extent of Rs. 39,409/- as noted by the Sub- Registrar-II, Jodhpur in the letter dated 19.12.2001 (Annex.4).

Thus, this writ petition clearly deserves to be allowed and the same is accordingly allowed. The concerned authority -respondent No.2 is directed to refund the said excess stamp duty and registration charges to the petitioner forthwith not later than three weeks from today. No order as to costs.

(Dr. VINEET KOTHARI)J.

ITEM NO.10.

gandhi/-